

AMENDED IN SENATE JUNE 24, 2004

AMENDED IN SENATE JUNE 7, 2004

AMENDED IN SENATE AUGUST 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1725

Introduced by Assembly Member Matthews

March 3, 2003

An act to amend Section 8617 of the Business and Professions Code, relating to structural pest control.

LEGISLATIVE COUNSEL'S DIGEST

AB 1725, as amended, Matthews. Structural pest control: violations.

Existing law provides for licensing and regulation of structural pest control operators and related licensees by the Structural Pest Control Board. Existing law also sets forth certain responsibilities of the Director of Pesticide Regulation and county agricultural commissioners relative to inspections and pesticide use by licensees of the board. Existing law provides for administrative fines of up to \$1,000 for violations of laws governing structural pest control licensees, with fines deposited into the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund.

This bill would instead provide for administrative fines of up to \$5,000 for any violation determined by *the board or* a county agricultural commissioner to be a serious violation, as defined by regulation.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8617 of the Business and Professions
2 Code is amended to read:
3 8617. (a) The board or county agricultural commissioners,
4 when acting pursuant to Section 8616.4, may suspend the right of
5 a structural pest control licensee or registered company to work in
6 a county for up to three working days or, for a licensee, registered
7 company, or an unlicensed individual acting as a licensee, may
8 levy an administrative fine up to one thousand dollars (\$1,000) or
9 direct the licensee to attend and pass a board-approved course of
10 instruction at a cost not to exceed the administrative fine, or both,
11 for each violation of this chapter, or Chapter 14.5, or any
12 regulations adopted pursuant to these chapters, or Chapter 2
13 (commencing with Section 12751), Chapter 3 (commencing with
14 Section 14001), Chapter 3.5 (commencing with Section 14101),
15 or Chapter 7 (commencing with Section 15201) of Division 7 of
16 the Food and Agricultural Code, or any regulations adopted
17 pursuant to those chapters, relating to pesticides. However, any
18 violation determined by *the board* or the commissioner to be a
19 serious violation as defined in Section 1922 of Title 16 of the
20 California Code of Regulations shall be subject to a fine of not
21 more than five thousand dollars (\$5,000) for each violation. Fines
22 collected shall be paid to the Education and Enforcement Account
23 in the Structural Pest Control Education and Enforcement Fund.
24 Suspension may include all or part of the registered company's
25 business within the county based on the nature of the violation, but
26 shall, whenever possible, be restricted to that portion of a
27 registered company's business in a county that was in violation.
28 (b) A licensee who passes a course pursuant to this section shall
29 not be awarded continuing education credit for that course.
30 (c) Before a suspension action is taken, a fine levied, or a
31 licensee is required to attend and pass a board-approved course of
32 instruction, the person charged with the violation shall be provided
33 a written notice of the proposed action, including the nature of the
34 violation, the amount of the proposed fine or suspension, or the
35 requirement to attend and pass a board-approved course of



1 instruction. The notice of proposed action shall inform the person
2 charged with the violation that if he or she desires a hearing before
3 the commissioner issuing the proposed action to contest the
4 finding of a violation, that hearing shall be requested by written
5 notice to the commissioner within 20 days of the date of issuance
6 of the written notice of proposed action.

7 A notice of the proposed action that is sent by certified mail to
8 the last known address of the person charged shall be considered
9 received even if delivery is refused or the notice is not accepted at
10 that address.

11 If a hearing is requested, notice of the time and place of the
12 hearing shall be given at least 10 days before the date set for the
13 hearing. At the hearing, the person shall be given an opportunity
14 to review the commissioner's evidence and a right to present
15 evidence on his or her own behalf. If a hearing is not requested
16 within the prescribed time, the commissioner may take the action
17 proposed without a hearing.

18 (d) If the person upon whom the commissioner imposed a fine
19 or suspension or required attendance at a board-approved course
20 of instruction requested and appeared at a hearing before the
21 commissioner, the person may appeal the commissioner's decision
22 to the Disciplinary Review Committee and shall be subject to the
23 procedures in Section 8662.

24 (e) If a suspension or fine is ordered, it may not take effect until
25 20 days after the date of the commissioner's decision if no appeal
26 is filed. If an appeal pursuant to Section 8662 is filed, the
27 commissioner's order shall be stayed until 20 days after the
28 Disciplinary Review Committee has ruled on the appeal.

29 (f) Failure of a licensee or registered company to pay a fine
30 within 30 days of the date of assessment or to comply with the
31 order of suspension, unless the citation is being appealed, may
32 result in disciplinary action being taken by the board.

33 Where a citation containing a fine is issued to a licensee and it
34 is not contested or the time to appeal the citation has expired and
35 the fine is not paid, the full amount of the assessed fine shall be
36 added to the fee for renewal of that license. A license shall not be
37 renewed without payment of the renewal fee and fine.

38 Where a citation containing a fine is issued to a registered
39 company and it is not contested or the time to appeal the citation
40 has expired and the fine is not paid, the board shall not sell to the

1 registered company any inspection stamps, notice of completion
2 stamps, or pesticide use stamps until the assessed fine has been
3 paid.

4 Where a citation containing the requirement that a licensee
5 attend and pass a board-approved course of instruction is not
6 contested or the time to appeal the citation has expired and the
7 licensee has not attended and passed the required board-approved
8 course of instruction, the licensee's license shall not be renewed
9 without proof of attendance and passage of the required
10 board-approved course of instruction.

11 (g) Once final action pursuant to this section is taken, no other
12 administrative or civil action may be taken by any state
13 governmental agency for the same violation. However, action
14 taken pursuant to this section may be used by the board as evidence
15 of prior discipline, and multiple local actions may be the basis for
16 statewide disciplinary action by the board pursuant to Section
17 8620. A certified copy of the order of suspension or fine issued
18 pursuant to this section or Section 8662 shall constitute conclusive
19 evidence of the occurrence of the violation.

20 (h) Where the board is the party issuing the notice of proposed
21 action to suspend or impose a fine pursuant to subdivision (a) of
22 this section, "commissioner" as used in subdivisions (c), (d), and
23 (e) includes the board's registrar.

